

2001 ASSEMBLY BILL 434

June 5, 2001 – Introduced by Representatives MONTGOMERY, LA FAVE, RHOADES, VRAKAS, ALBERS, TOWNSEND, SUDER and RYBA, cosponsored by Senators BURKE and ROSENZWEIG. Referred to Committee on Insurance.

1 **AN ACT** *to amend* 632.05 (2) of the statutes; **relating to:** limiting to property that
2 is primarily residential the type of property for which the amount of loss is the
3 insurance policy limits.

Analysis by the Legislative Reference Bureau

Current law provides that, if real property that is owned and occupied as a dwelling is wholly destroyed, the amount of the loss, for insurance purposes, is the limits of any policy covering the property. A Wisconsin administrative rule provides that, if property owned and occupied as a dwelling is also used for commercial purposes, except on an incidental basis, the statute regarding the amount of loss in case of destruction does not apply to the property. The Wisconsin supreme court, in *Seider v. O'Connell*, 236 Wis. 2d 211, 612 N.W. 2d 659 (2000), determined that the administrative rule is invalid because it exceeds the statutory authority of the office of the commissioner of insurance, which promulgated the rule. Thus, if a property that is used for both commercial and residential purposes, such as a business over which the business owner lives, is wholly destroyed, the amount of the loss is the policy limits of any insurance policy covering the property. This bill provides that the statute requiring the policy limits to be the loss amount for wholly destroyed property applies only to property that is owned and occupied primarily as a dwelling.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

